

**KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
DIVISION OF ENVIRONMENT  
BUREAU OF ENVIRONMENTAL REMEDIATION  
REMEDIAL SECTION**

**ANNUAL PROGRAM REPORT  
FOR THE  
ENVIRONMENTAL USE CONTROL PROGRAM**

Pursuant to the requirements of K.S.A. 65-1,221 et seq.

**ACTIVITIES FROM JANUARY 1, 2012 TO DECEMBER 31, 2012**

**BACKGROUND:** On April 21, 2003, Governor Sebelius signed House Bill (HB) 2247. This bill established the use of Environmental Use Controls (EUCs) for property with environmental contamination above unrestricted use standards. The Kansas Department of Health and Environment (KDHE) worked with a stakeholder committee in the fall of 2002 in developing the bill. This committee consisted of the following stakeholders: Kansas Association of Counties, Sierra Club, Kansas Agricultural Remediation Board, Westar Energy, Kansas Agribusiness Retailers Association, Department of the Army, Kansas Natural Resource Council, Kansas Farm Bureau, Kansas Livestock Association, City of Wichita, Petroleum Marketers Association, Kansas Petroleum Council and KDHE. The bill was introduced during the 2003 Legislature and was subsequently passed by the House 111 to 12 and the Senate 34 to 0. HB 2247 became law on July 1, 2003. New sections of HB 2247 are now referred to as Kansas Statutes Annotated (K.S.A.) 65-1,221 through 65-1,235.

Subsequently, as required by K.S.A. 65-1,232, the secretary of KDHE adopted rules and regulations to implement the provisions of the act. KDHE presented draft regulations (Kansas Administrative Regulations (K.A.R.) 28-73-1 through K.A.R. 28-73-7), including the financial assurance guidance document entitled *Procedures for Demonstrating Financial Assurance at Property with Environmental Use Controls* to the Legislative Joint Committee on Administrative Rules and Regulations on January 9, 2006. In response to comments received, K.A.R. 28-73-7 was modified slightly and resubmitted to the Department of Administration and the Attorney General's office for approval. The revised regulations were published in the March 23, 2006 edition of the Kansas Register and went into effect on April 7, 2006.

EUCs, commonly known as institutional controls, are to be used in conjunction with environmental cleanup to restrict or prohibit human activities and property use in such a way as to prevent or reduce exposures to contamination. Some examples of environmental use controls include preventing disturbance of soil caps, covers, berms, etc.; prohibiting the drilling of water wells for domestic or other purposes; restricting and providing notification during utility excavation of an area; restricting use of a property for residential purposes; and, restricting access to the property.

The law provides a mechanism for a landowner with contaminated property to choose to restrict certain activities to mitigate the risk posed to human health and the environment from contamination at their property. The landowner would make application to KDHE for such restrictions. The EUC Program is managed within the KDHE's Bureau of Environmental Remediation (BER).

**REPORT SUMMARY:** This annual report describes the activities accomplished by the EUC Program for the period of January 1, 2012 to December 31, 2012. In addition, as required by K.S.A. 65-1,233, KDHE will publish an annual summary in the Kansas Register of the number of approved EUC Agreements (EUCAs).

The KDHE EUC program received 26 applications from landowners of environmentally contaminated property in 2012. Eligible applicants (landowners of contaminated property) formally recorded EUCAs at 26 properties with the appropriate county Register of Deeds in 2012 (this includes applications received prior to 2012). Since the inception of the program in 2003, a total of 166 applications have been received by KDHE and 133 EUCAs have been officially recorded. In general, KDHE anticipates a similar number of EUC applications in 2013.

The EUC program also conducts inspections on properties with EUCAs and tracks these documents as required by the statute. Conducting inspections ensures that restrictions are being maintained as described in the EUCA to protect public health and the environment. In 2012, a total of 41 inspections were conducted by KDHE staff at properties with EUCAs and/or institutional controls in place. A total of 15 written inspection reports were received from owners or their authorized representative in 2012. KDHE has developed tracking tables and reports and collates this information on the Identified Sites List which is available on the public website at: [http://www.kdheks.gov/remedial/isl\\_disclaimer.html](http://www.kdheks.gov/remedial/isl_disclaimer.html).

<u>TERM</u>	<u>NUMBER OF SIGNED APPLICATIONS RECEIVED</u>	<u>NUMBER OF EUCAs RECORDED</u>
* July 1, 2003, to December 31, 2003	2	0
January 1, 2004, to December 31, 2004	5	2
January 1, 2005, to December 31, 2005	16	7
January 1, 2006, to December 31, 2006	20	18
January 1, 2007, to December 31, 2007	22	13
January 1, 2008, to December 31, 2008	31	24
January 1, 2009, to December 31, 2009	13	9
January 1, 2010, to December 31, 2010	12	17
January 1, 2011, to December 31, 2011	19	17
January 1, 2012, to December 31, 2012	26 (as of December 11, 2012)	26
<b>Total</b>	<b>166</b>	<b>133</b>

\* Inception of the program

